

REMARKS

The art rejections are respectfully traversed. Considering first the rejection of claims 1, 2, 7, 11, 13, 14, 19, 20, 21 and 27 under 35 USC §103(a) as being unpatentable over US Published Patent Application 2003/0091057 to Miyashita et al (hereinafter "Miyashita") in view of US Patent No. 6,775,239 to Akita et al (hereinafter "Akita"), claims 1, 13, 20 and 27 all require, in part, "a forwarding section for forwarding control information included in the transmission signal to the transmitting section **without** controlling the control information according to the predetermined communication protocol." As noted in Amendment A, incorporated herein by reference, Miyashita not only fails to teach this requirement, Miyashita actually teaches away from this requirement. The Examiner asserts that this missing requirement is taught by Akita. However, the noted figure in the Office Action, Fig. 1, fails to disclose any teaching of this requirement. Additionally, the text of Akita corresponding to Fig. 1 also fails to teach this requirement.

Akita states: "The ATM cell 21 is transferred to an MPLS router 31 via ATM switches 22 and 24 and the like through ATM switching based on PVC (permanent virtual circuit). (Col. 1, lines 23-31). Furthermore, in regards to Fig. 2 Akita states: ". . .data necessary for communication control in the MPLS communication scheme are kept in storage as the label data 41 controlled by the MPLS router and the switch data 51 controlled by the trunk switch." (Col 2, lines 4-6). Thus, Akita not only fails to overcome the acknowledged deficiencies of Miyashita, Akita actually teaches away from the requirements of claims 1, 13, 20 and 27 by teaching elements of data open to communication control according to a predetermined communication protocol. Therefore, no combination of Miyashita in view of Akita can be said to anticipate independent claims 1, 13, 20 and 27.

HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE
SUITE 140
TUCSON, AZ 85718
TEL. 520.882.7623
FAX. 520.882.7643

175 CANAL STREET
MANCHESTER, NH 03101
TEL. 603.668.1400
FAX. 603.668.8567

Claims 2, 7, 11, 14, 19 and 21 are dependent on claims 1, 13 or 20 as the case may be, and are allowable over Miyashita and Akita for the same reasons above adduced relative to claims 1, 13 and 20, as well as for their own additional limitations.

Turning to the rejection of claims 3-6, 12, 15-18, 22-26, 28 and 29 as obvious from Miyashita in view of Akita, these claims are directly or indirectly dependent on independent claims 1, 13, 20 or 27, as the case may be. The deficiencies of Miyashita and Akita are discussed above with respect to independent claims 1, 13, 20 and 27.

Accordingly, claims 3-6, 12, 15-18, 22-26, 28 and 29 are allowable over Miyashita and Akita for the same reasons above adduced relative to their underlying independent claims, as well as for their own additional limitations.

Turning to the rejection of claims 8-10 as obvious from Miyashita in view of Akita, and further in view of Czeiger et al. (hereinafter "Czeiger"), claims 8-10 are directly or indirectly dependent on claim 1. The deficiencies of the primary combination Miyashita and Akita vis-à-vis claim 1 are discussed above. It is not seen that Czeiger supplies the missing teachings to Miyashita and Akita to achieve or render obvious claim 1 or claims 8-10 which depend thereon. The Examiner cites Czeiger as teaching a data transfer system wherein an upstream data transmission equipment works in a different communication protocol and a downstream data transmission equipment works in a predetermined communication protocol, or wherein both an upstream data transmission equipment and a downstream data transmission equipment work in a predetermined communication protocol, or wherein an upstream data transmission equipment works in a predetermined communication protocol and a downstream data transmission equipment works in a different communication protocol. Even assuming *arguendo* Czeiger is as the Examiner characterizes it, the more basic and essential features missing from the primary

HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE
SUITE 140
TUCSON, AZ 85718
TEL. 520.882.7623
FAX. 520.882.7643

175 CANAL STREET
MANCHESTER, NH 03101
TEL. 603.668.1400
FAX. 603.668.8567

combination of Miyashita and Akita are not supplied by Czeiger. Thus, no combination of Miyashita, Akita and Czeiger could be said to achieve or render obvious independent claim 1, or claims 8-10 which depend thereon.

Having dealt with all the objections raised by the Examiner, the Application is believed to be in order for allowance. Early and favorable action is respectfully requested.

In the event there are any fee deficiencies or additional fees are payable, please charge them (or credit any overpayment) to our Deposit Account Number 08-1391.

Respectfully submitted,



Norman P. Soloway
Attorney for Applicant
Reg. No. 24,315

Customer No. 27,667

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I certify that this correspondence is being deposited with the United States Postal Service as First Class mail in an envelope addressed to MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 12, 2008 at Tucson, Arizona.

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HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE
SUITE 140
TUCSON, AZ 85718
TEL. 520.882.7623
FAX. 520.882.7643

175 CANAL STREET
MANCHESTER, NH 03101
TEL. 603.668.1400
FAX. 603.668.8567